

THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

COMANCHE NATION, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	NO. CIV-08-849-D
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	

ORDER

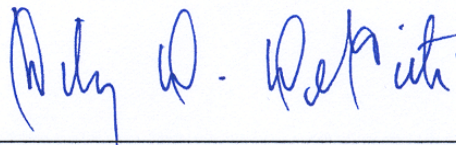
Defendants have filed a Motion to Dismiss the Complaint [Doc. No. 50]; pursuant to Fed. R. Civ. P. 12(b)(1), they argue that the Court lacks subject matter jurisdiction because Plaintiffs' claims for relief are now moot. Subsequent to the filing of the Motion, however, Plaintiffs filed an Amended Complaint [Doc. No. 54]. Although Plaintiffs have responded to Defendants' arguments in support of dismissal, they also point out the Amended Complaint not only supersedes the original Complaint, but it also contains new allegations.

An amended complaint "supersedes the original and renders it of no legal effect." *Davis v. TXO Production Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991) (citations omitted). Thus, a motion to dismiss the original complaint is rendered moot by the filing of an amended complaint. *Clajon Production Corp. v. Petera*, 70 F. 3d 1566, 1569 n. 1(10th Cir. 1995).

Because the Amended Complaint in this case supersedes the original Complaint and Defendants' Motion challenged only the original Complaint, the Motion [Doc. No. 50] is MOOT

and is denied, without prejudice to Defendants' right to seek dismissal of the Amended Complaint.

IT IS SO ORDERED this 3rd day of December, 2008.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE